

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of:

ROBERT V. GOOD,

Former Employee and
Institution-Affiliated Party
of:

FIRST SAVINGS BANK, F.S.B.
CLOVIS, NEW MEXICO

RE: OTS Order No. DAL-95-18

Dated: June 12, 1995

STIPULATION AND CONSENT TO ENTRY
OF AN ORDER OF PROHIBITION AND ORDER TO
CEASE AND DESIST FOR AFFIRMATIVE RELIEF

WHEREAS, the Office of Thrift Supervision ("OTS"), based upon information derived from the exercise of its regulatory responsibilities, has informed Robert V. Good ("GOOD"), former employee and institution-affiliated party of First Savings Bank, Clovis, New Mexico, OTS No. 2891 ("First Savings Bank" or the "Institution") that the OTS is of the opinion that grounds exist to initiate administrative cease and desist and prohibition proceedings against GOOD pursuant to Sections 8(b) and 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(b) and 12 U.S.C. § 1818(e).¹

WHEREAS, GOOD desires to cooperate with the OTS to avoid the

1. All references in this Stipulation and Consent and the Orders are to the U.S.C. are as amended.

time and expense of such administrative litigation and, without admitting or denying that such grounds exist, but admitting the statements and conclusions in Paragraph 1 below, hereby stipulates and agrees to the following terms:

1. Jurisdiction.

(a) First Savings Bank, at all times relevant hereto, was a "savings association" within the meaning of Section 3(b) of the FDIA, 12 U.S.C. § 1813(b), and Section 2(4) of the Home Owners' Loan Act ("HOLA"), 12 U.S.C. § 1462(4). Accordingly, First Savings Bank was an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).

(b) GOOD, as a former employee of First Savings Bank, is deemed to be an "institution-affiliated party" as that term is defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u), having served in such capacity within six (6) years of the date hereof (see 12 U.S.C. § 1818(i)(3)).

(c) Pursuant to Section 3(q) of the FDIA, 12 U.S.C. § 1813(q), the OTS is the "appropriate Federal banking agency" with jurisdiction to maintain an enforcement proceeding against institution-affiliated parties. Therefore, GOOD is subject to the authority of the OTS to initiate and maintain cease and desist and prohibition proceedings against him pursuant to Section 8(b) of the FDIA, 12 U.S.C. § 1818(b) and Section 8(e) of the FDIA, 12 U.S.C. § 1818(e).

2. OTS Findings of Fact.

(a) The OTS finds that from on or about May 12, 1988, through April 14, 1989, GOOD approved two loans to Bobby Joe Hopper,

resulting in loss to First Savings Bank in the amount of \$97,059.11. In approving these loans, GOOD failed to: obtain regulatorily required documents and information on the borrower; determine the inventory, existence, and market value of the collateral; obtain a required real estate appraisal; determine and monitor the tax, assessment, and insurance status of real estate pledged as collateral; obtain adequate financial information on the borrower; verify or substantiate financial information provided by the borrower; perfect on a timely basis First Savings Bank's security interest in the collateral; and, in at least one instance, failed completely to perfect First Savings Bank's security interest in real estate pledged as collateral. In addition, GOOD failed to advise First Savings Bank officials that he had not perfected First Savings Bank's security interest in real estate pledged as collateral and failed to monitor the loans after the loans were approved to insure full and timely repayment.

(b) The OTS further finds that from August 22, 1988, through April 20, 1989, GOOD approved, caused to be approved, or did not object to the approval and payment of at least 251 overdrafts for Bobby Joe Hopper ranging from \$9.50 to \$15,000.00, totaling \$90,655.93, and resulting in loss to First Savings Bank in the amount of \$90,655.93. In furtherance of the foregoing acts and omissions, GOOD failed to obtain adequate financial information on the depositor, failed to determine the depositor's financial ability to repay the overdrafts, and failed to protect First Savings Bank's interest in the repayment of the overdrafts.

(c) The OTS finds that GOOD's actions resulted in a total loss

to First Savings Bank of \$187,715.04.

(d) The OTS further finds that as a result of the foregoing acts and omissions, GOOD violated First Savings Bank's internal policies; and further, GOOD (1) engaged in a violation of the law or breached his fiduciary duty to First Savings Bank; and (2) First Savings Bank suffered a financial loss or he received a financial benefit or other gain; and (3) the violation of law or breach of fiduciary duty demonstrates willful and/or continuing disregard by GOOD for the safety and soundness of First Savings Bank.

3. Consent. GOOD consents to the issuance by the OTS of the accompanying Order of Prohibition and Order to Cease and Desist for Affirmative Relief ("Orders"). He further agrees to comply with their terms upon issuance and stipulates that the Orders comply with all requirements of law.

4. Financial Disclosure. The OTS has determined that it is appropriate, and in the best interest of the public, to execute this Consent and the Attached Orders. The OTS determination is based upon available evidence and testimony and, in part, is based in reliance upon the Statement of Financial Affairs ("Financial Statement") dated August 23, 1994, filed by GOOD in response to an OTS formal examination subpoena duces tecum, which reflects GOOD's financial condition. The OTS determination is also based, in part, on GOOD's March 6, 1995, sworn statement that his current financial condition was unchanged from that reflected in his August 23, 1994 Financial Statement. GOOD acknowledges and agrees that should the OTS discover or learn from any source that the representations made by him or that any of the financial information supplied by him are

false or misleading, including but not limited to the failure to identify or value any material asset, the OTS reserves the right to take any action authorized by law, including to void the settlement reached between GOOD and the OTS, including this Stipulation and Order, and to reinstate this proceeding or to commence other administrative proceedings against him, or to impose civil money penalties under 12 U.S.C. 1818(i).

5. Finality. The Orders are issued by the OTS under the authority of Section 8(b) of the FDIA, 12 U.S.C. §1818(b) and Section 8(e) of the FDIA, 12 U.S.C. §1818(e). Upon their issuance by the Regional Director or designee for the Midwest Region, OTS, they shall be final orders, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i).

6. Waivers. GOOD waives the following:

(a) the right to be served with a written notice of the OTS's charges against him (see Sections 8(b) and 8(e) of the FDIA);

(b) the right to an administrative hearing of the OTS's charges against him (see Sections 8(b) and 8(e) of the FDIA); and

(c) the right to seek judicial review of the Order, including, without limitation, any such right provided by Section 8(h) of the FDIA, 12 U.S.C. §1818(h), or otherwise to challenge the validity of the Order.

7. Indemnification. GOOD shall neither cause nor permit First Savings Bank (or any successor institution, holding company, subsidiary, or service corporation thereof) to incur, directly or indirectly, any expense for any legal or other professional

expenses incurred relative to the negotiation and issuance of the Order of Prohibition and Order to Cease and Desist for Affirmative Relief. Nor shall GOOD obtain any indemnification (or other reimbursement) from the Institution (or any successor institution, holding company, subsidiary, or service corporation thereof) with respect to such amounts. Any such payments received by or on behalf of GOOD in connection with this action shall be returned to First Savings Bank (or the successor institution, holding company, subsidiary, or service corporation thereof).

8. Other Government Actions Not Affected.

(a) GOOD acknowledges and agrees that the consent to the entry of the Orders is for the purpose of resolving these cease and desist and prohibition actions only, and does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of GOOD that arise pursuant to these actions or otherwise, and that may be or have been brought by any other government entity other than the OTS.

(b) By signing this Stipulation and Consent to Entry of an Order of Prohibition and Order to Cease and Desist for Affirmative Relief, GOOD agrees that he will not assert this proceeding, his consent to the entry of the Orders, and/or the entry of the Orders, as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other Federal or state governmental entity.

9. Acknowledgment of Criminal Sanctions. GOOD acknowledges that Section 8(j) of the FDIA, 12 U.S.C. §1818(j), sets forth

criminal penalties for knowing violations of the Order.

10. Agreement for Continuing Cooperation. GOOD agrees that, at the OTS's request, on reasonable notice and without service of a subpoena, he will provide discovery and testify truthfully at any deposition and at any judicial or administrative proceeding related to any investigation, litigation, or other proceeding maintained by the OTS relating to First Savings Bank, its holding companies, its subsidiaries, and its institution-affiliated parties, except that GOOD does not waive any privilege against self-incrimination under the Fifth Amendment of the United States Constitution. If GOOD invokes a privilege against self-incrimination under the Fifth Amendment of the United States Constitution with respect to any matter about which the OTS inquires or the production of any document requested by the OTS and the OTS obtains a grant of immunity pursuant to 18 U.S.C. § 600 et seq., GOOD agrees, consistent with any such grant of immunity, to provide discovery and testify truthfully at any deposition and at any judicial, administrative, or investigative proceeding on the matter for which immunity is given.

WHEREFORE, GOOD executes this Stipulation and Consent to Entry of an Order of Prohibition and Order to Cease and Desist for Affirmative Relief, intending to be legally bound hereby.

By:

Accepted By:
Office of Thrift Supervision

Robert V. Good
Robert V. Good

Frederick R. Casteel
Frederick R. Casteel
Midwest Regional Director

Dated: 5-18-95

Dated: 6-12-95

* * * * *

ACKNOWLEDGMENT

State of NEW MEXICO)

County of LEA)

On this 18th day of May, 1995, before me, the undersigned notary public, personally appeared Robert V. Good and acknowledged his execution of the foregoing STIPULATION AND CONSENT TO ENTRY OF AN ORDER OF PROHIBITION AND CEASE AND DESIST ORDER FOR AFFIRMATIVE RELIEF

Conda Murphy
Notary Public
My Commission expires:
January 31, 1999

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of:

ROBERT V. GOOD,

FORMER EMPLOYEE AND
INSTITUTION-AFFILIATED PARTY
OF:

FIRST SAVINGS BANK, F.S.B.
CLOVIS, NEW MEXICO

RE: OTS ORDER NO. DAL-95-18

DATED: June 12, 1995

ORDER OF PROHIBITION
AND
ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF

WHEREAS, Robert V. Good ("GOOD") has executed a Stipulation and Consent to Entry of an Order of Prohibition and Order to Cease and Desist for Affirmative Relief ("Stipulation") on _____, 1995; and

WHEREAS, GOOD, by his execution of the Stipulation, has consented and agreed to the issuance of this Order of Prohibition and Order to Cease and Desist for Affirmative Relief ("Orders") by the Office of Thrift Supervision ("OTS"), pursuant to Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. §1818(e) and Section 8(b) of the FDIA, 12 U.S.C. §1818(b).

NOW THEREFORE, IT IS ORDERED that:

ORDER OF PROHIBITION

1. GOOD is prohibited from further participation, in any manner, in the conduct of the affairs of First Savings Bank, F.S.B., Clovis, New Mexico, and any successor institution, holding company, subsidiary, and/or service corporation thereof.

2. GOOD is and shall be subject to the statutory prohibitions provided by Section 8(e) of the FDIA, 12 U.S.C. § 1818(e). Due to and without limitation on the operation of Sections 8(e)(6) and 8(e)(7) of the FDIA, 12 U.S.C. §§ 1818(e)(6) and 1818(e)(7), GOOD, except upon the prior written consent of the OTS (acting through its Director or an authorized representative thereof) and any other "appropriate Federal financial institutions regulatory agency," for purposes of Section 8(e)(7)(B)(ii) of the FDIA, 12 U.S.C. § 1818(e)(7)(B)(ii), shall not:

(A) hold any office in, or participate in any manner in the conduct of the affairs of, any institution or any agency specified in Section 8(e)(7)(A) of the FDIA, 12 U.S.C. § 1818(e)(7)(A) ("Covered Institution"), including:

(i) any insured depository institution, e.g., savings and loan associations, savings banks, national banks, state banks, trust companies, and other banking institutions;

(ii) any institution treated as an insured bank under Sections 8(b)(3) and 8(b)(4) of the FDIA, 12 U.S.C. §§ 1818(b)(3) and 1818(b)(4), or as a savings association under Section 8(b)(9) of the FDIA, 12 U.S.C. § 1818(b)(9), e.g., subsidiaries and holding

companies of banks or savings associations;

(iii) any insured credit union under the Federal Credit Union Act, 12 U.S.C. §§ 1781 et seq.;

(iv) any institution chartered under the Farm Credit Act of 1971, 12 U.S.C. §§ 2001 et seq.;

(v) any appropriate Federal depository institution regulatory agency, within the meaning of Section 8(e)(7)(A)(v) of the FDIA, 12 U.S.C. §§ 1818(e)(7)(A)(v);

(vi) the Federal Housing Finance Board and any Federal Home Loan Bank; and

(vii) the Resolution Trust Corporation.

(B) solicit, procure, transfer, attempt to transfer, vote or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any Covered Institution;

(C) violate any voting agreement previously approved by the "appropriate Federal banking agency" within the meaning of Section 3(q) of the FDIA, 12 U.S.C. §§ 1813(q); or

(D) vote for a director, or serve or act as an "institution-affiliated party," as that term is defined at Section 3(u) of the FDIA, 12 U.S.C. § 1813(u), e.g., a director, officer, employee, controlling stockholder of, or agent for, an insured depository institution.

IT IS FURTHER ORDERED that:

ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF

3. GOOD is and shall be subject to the statutory requirements provided by Section 8(b) of the FDIA, 12 U.S.C. § 1818(b).

4. GOOD shall pay restitution to First Savings Bank, F.S.B., Clovis, New Mexico, in the amount of \$7,500.00 as follows: \$2,500.00 within 30 days of the date of this Order, \$2,500.00 on or before six (6) calendar months from the date of this Order, and the remaining \$2,500.00 on or before twelve (12) calendar months from the date of this Order.

5. All payments should be made by certified check or money order made payable to First Savings Bank, F.S.B., and forwarded to the OTS Midwest Regional Enforcement/Litigation Department by U.S. Mail addressed to:

Mr. Gary C. Anderberg
Enforcement/Litigation
Office of Thrift Supervision
Post Office Box 619027
Dallas/Fort Worth, Texas 75261-9027

Additional Provisions:

6. The Stipulation is made a part hereof and is incorporated herein by this reference.

7. These Orders are subject to the provisions of Section 8(j) of the FDIA, 12 U.S.C. §1818(j), and shall become effective on the date of issuance.

8. GOOD shall promptly respond to any request from the OTS

Robert V. Good
Orders: Prohibition / Cease and Desist
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for documents that the OTS reasonably requests to demonstrate compliance with these Orders.

9. The terms and provisions of these Orders shall be binding upon, and inure to the benefit of, the parties hereto and their successors in interest.

10. A copy of these Orders shall be served upon GOOD through his designated counsel.

THE OFFICE OF THRIFT SUPERVISION

By:



Frederick R. Casteel
Midwest Regional Director